

## REMARKS

Claim 1 is amended to recite that in the packaged detergent composition one solid is floating on the outer surface of at least one liquid. This amendment is supported in the specification, including at page 6, lines 16-26.

Claim 8 is rewritten to recite a method of washing dishes comprising the steps of providing the packaged detergent composition according to claim 1 and releasing the detergent composition in an automatic dishwashing machine. Claim 9 is rewritten to recite a method of washing laundry comprising the steps of providing the packaged detergent composition according to claim 1 and releasing the detergent composition in a laundry washing machine. These amendments to claims 8-9 are supported in the specification, including at page 26, line 16 to page 27, line 10, and also in the examples.

New claim 15 is added which recites an embodiment wherein the solid floating on the outer surface of the liquid has a constant overall diameter of 11 mm. This new claim is supported in the specification at page 28, lines 5-6.

At page 2 of the Office Action, the Examiner withdraws the rejection of the abstract, the rejection of claims 8 and 9 under 35 U.S.C. § 101 and the rejection of claims 1, 3-7 and 8-14 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,929,380 to Schulz *et al.* The applicants gratefully acknowledge the withdrawal of these objections and rejections.

At page 2 of the Office Action, the Examiner rejects claims 8 and 9 under 35 U.S.C. § 112 (second paragraph) as failing to particularly point out and distinctly claim the subject matter which the applicants regard as the invention. Reconsideration and withdrawal of this rejection is respectfully requested.

The Examiner asserts that claims 8 and 9 are indefinite in the recital of “using” because the claims allegedly recite “using” without any active, positive steps delimiting how the use is practiced. Claims 8 and 9 are amended to recite that the methods comprise the steps of 1) providing the cleaning composition and 2) releasing the composition in a washing machine. As such, the claims recite methods with positive steps delimiting the method. Claims 8 and 9, as amended, comply with the requirements of 35 U.S.C. § 112 (second paragraph).

At pages 2-3 of the Office Action, the Examiner rejects claims 1-8 and 10-14 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,492,312 to Pfeiffer, *et al.* (“Pfeiffer”), or in the alternative under 35 U.S.C. § 103(a) as being obvious over Pfeiffer. Reconsideration and withdrawal of these rejections are respectfully requested.

The Examiner asserts that Pfeiffer teaches a water soluble sachet comprising a detergent composition having discrete particle that enhances cleaning in a dishwashing machine wherein the composition is a gel which comprises discrete particles having an approximate diameter from about 100 microns to about 5,000 microns and a viscosity from about 100 cps to about 45,000 cps. The Examiner further argues that the discrete particles may be encapsulated bleach which inherently has a density lower than the density of the composition and that suitable materials for the water soluble sachet include polyvinyl alcohol (“PVOH”). Finally, the examiner argues that the dishwashing composition of Pfeiffer should inherently have a dispersion/dissolution time as recited in the claims considering the same liquid is purportedly utilized. On this basis, the Examiner concludes that Pfeiffer anticipates present invention. The Examination further states that even if Pfeiffer does not anticipate, it would have been obvious for one skilled

in the art at the time the invention was made to reasonably expect the discrete particles such as the encapsulated bleach to have a density lower than the density of the dishwashing composition considering that the particles are discrete and would have dispersed/suspended/floated in the composition.

The present invention is not anticipated by Pfeiffer. The essence of the disclosure of Pfeiffer as understood by one skilled in the art is a composition with many small particles distributed throughout the liquid. For example, Pfeiffer discusses at column 9, lines 11-15 discrete particles that enhance cleaning in a dishwashing machine having certain diameters and at column 11, lines 28-36 discrete particle enzymes. The present invention, however, concerns a particle floating at the top of the liquid as set forth in the amended claims. Pfeiffer does not expressly or inherently disclose this composition and, as such, the present invention, as set forth in the amended claims, is not obvious over Pfeiffer.

Also, the present invention is not obvious over Pfeiffer. The state of the art based on Pfeiffer is, as discussed above, a composition with many small particles distributed throughout the liquid and Pfeiffer does not specifically state that the particles float on top of the liquid and indeed one skilled in the art would not consider Pfeiffer to teach of a particle on top of the liquid in that it teaches of particles known in the art to be smaller sized particles dispersed in the liquid. The present invention, however, as set forth in the amended claims, involves a particle floating at the top of the liquid. Based on the differences between the present invention wherein a particle floats on top of the liquid and Pfeiffer, the present invention, as set forth in the amended claims, is not obvious over Pfeiffer.

Moreover, claim 15 recites an embodiment wherein the solid floating on top of the liquid has a constant overall diameter of 11 mm. Pfeiffer discusses particles having a diameter of at most 5,000 microns. Hence, Pfeiffer does not expressly or inherently disclose a composition having liquid and solid with a solid floating on top of a liquid having an 11 mm diameter. Further, considering that Pfeiffer teaches of particles with diameters of at most 5,000 microns, there is no teaching of the embodiment of the invention wherein the solid is 11 mm in constant diameter and Pfeiffer does not provide the state of the art with knowledge of compositions, such as that of claim 15, having the 11 mm diameter solid floating on top of the liquid. Thus, the embodiment of claim 15 is not anticipated by or obvious over Pfeiffer.

At pages 3-4 of the Office Action, the Examiner rejects claim 9 under 35 U.S.C. § 103(a) as being obvious over Pfeiffer in view of WO 01/60966 to Dasque *et al.* ("Dasque"). Reconsideration and withdrawal of this rejection is respectfully requested.

The Examiner cites to Pfeiffer for the reasons stated above but acknowledges that Pfeiffer does not disclose the composition for use in a dishwashing machine. The Examiner, however, refers to Dasque for the alleged teaching that a detergent composition in a water soluble pouch with similar ingredients is prepared as laundry or dishwashing composition and thus useful in laundry or dishwashing machines. On this basis, the Examiner concludes that the embodiment of claim 9 is obvious over Pfeiffer in view of Dasque.

Claim 9 is dependent from claim 1 in that it applies the detergent composition of claim 1 in a method for washing laundry. As discussed above, the detergent composition of claim 1 which requires one solid floating on the outer surface of the liquid is not

obvious over Pfeiffer. As such, a method of washing laundry recited in claim 9 comprising the steps of providing this novel and unique detergent composition and releasing the detergent composition in a laundry washing machine is not obvious over Pfeiffer in view of Dasque.

At pages 5-6 of the Office Action, the Examiner provisionally rejects claim 1 under the doctrine of obviousness type double patenting as being unpatentable over claim 2 of co-pending application Ser. No. 10/505,624. Due to the provisional nature of this rejection, it is premature for the applicants to submit a terminal disclaimer. The applicants shall submit any appropriate terminal disclaimer at the appropriate time if necessary at the conclusion of prosecution of this application.

At pages 4-6 of the Office Action, the Examiner responds to the arguments submitted by the applicants in the September 26, 2006 paper. Considering the claim amendments and arguments set forth herein which, in part, comment on the Examiner's remarks, no further comment by the applicants should be necessary.

### **CONCLUSION**

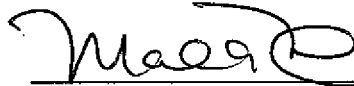
The instant application is believed to be in condition for allowance. A Notice of Allowance of Claims 1, 3-9 and 15 is respectfully requested. The Examiner is invited to telephone the undersigned at (908) 722-0700 if it is believed that further discussions, and/or additional amendment would help advance the prosecution of the instant application.

If any extension of time for this response is required, applicant requests that this be considered a petition therefor. Please charge any required petition fee to the Deposit Account No. 14-1263.

Please charge any insufficiency of fees, or credit any excess, to the Deposit

Account No. 14-1263.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read 'Mark A. Montana', written over a horizontal line.

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